

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE SERVICES**  
**Before the Commissioner of Financial and Insurance Services**

**In the matter of**

**XXXXX**

**Petitioner**

**File No. 86834-001**

**v**

**Health Alliance Plan of Michigan**  
**Respondent**

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**Issued and entered**  
**this 10th day of January 2008**  
**by Ken Ross**  
**Acting Commissioner**

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On December 20, 2007, XXXXX on behalf of her minor daughter XXXXX (Petitioner) filed a request for expedited external review with the Commissioner of the Office of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* In order to receive an expedited external review under PRIRA, a physician must substantiate that the Petitioner's life or health would be seriously jeopardized or the Petitioner's ability to regain maximum function would be jeopardized if an expedited review is not granted. In this case, a physician has not documented such conditions. On December 21, 2007, after a preliminary review of the material submitted, the Commissioner accepted the request for external review on a non-expedited basis.

The case involves medical issues. Therefore, the Commissioner assigned the matter to an independent review organization (IRO) for analysis by a medical expert. The review was

completed and submitted to the Office of Financial and Insurance Services on January 7, 2008.

## **II FACTUAL BACKGROUND**

The Petitioner is a member of Health Alliance Plan (HAP), a health maintenance organization. The Petitioner, a 16 month old child, was born premature at 32 weeks gestation. Her neonatologist requested coverage for Synagis injections to prevent respiratory syncytial virus (RSV).

The Petitioner requested authorization and coverage for the injections for the RSV season (November through April). HAP denied the request and the Petitioner appealed. After the Petitioner exhausted HAP's internal grievance process, HAP maintained its denial and sent the Petitioner its final adverse determination letter dated December 14, 2007.

## **III ISSUE**

Did HAP properly deny the Petitioner's request for coverage of RSV injections?

## **IV ANALYSIS**

### **Petitioner's Argument**

The Petitioner's mother says that, although the Petitioner is now 16 months old, she is still at risk. In January 2008, Petitioner will be starting daycare where RSV is common. There are additional risk factors as well: Petitioner's mother has asthma and her father smoked until Petitioner was 14 months old. Petitioner's mother argues that, although Petitioner has not had treatment for chronic lung disease, her request for Synagis injections is supported not only by Petitioner's neonatologist and pediatrician, but also the Center for Disease Control.

Petitioner's mother contends that "Synagis is the best defense for children with the risk factors [Petitioner] has. It provides needed protection and helps prevent the life-threatening risk, turmoil and cost of a hospital stay, not to mention any lifelong chronic health outcomes, such as asthma."

### HAP's Argument

In the final adverse determination letter dated December 14, 2007, HAP's grievance committee denied coverage for the shots, stating in part:

HAP provides coverage for Synagis in infants born between 32 and 35 weeks of gestation who are up to six (6) months of age at the start of the RSV season and have two (2) or more risk factors such as school age-siblings, congenital abnormalities of the airways or severe neuromuscular disease. According to our records, your daughter was 15 months of age at the time of the original request and did not meet the criteria pre-determined by the . . . American Academy of Pediatric (AAOP) guidelines on the use of Synagis.

\* \* \*

Based on HAP's review of your daughter's case, it was determined that your daughter was born premature at 32 weeks and received Synagis during her first Synagis season (October 2006 – April 2007) as recommended by the AAOP guidelines. However, at this time, your daughter is 15 months of age . . . and does not have any chronic heart or lung disease which required medical therapy within six (6) months of the anticipated RSV season. Therefore, your request must remain denied.

HAP believes its denial was appropriate.

### Commissioner's Review

The question of whether RSV injections are medically necessary for Petitioner was presented to an IRO for analysis. The IRO reviewer is a physician with an academic appointment who is board certified in pediatric neurology and neonatology. The reviewer has been in practice for more than 15 years.

The reviewer noted that Petitioner had been seen by a pediatric developmental specialist at 14 months and was felt to be normal with the exception of some reflux and gagging on solid foods. Petitioner received the Synagis injections in her first RSV season, which is consistent with AAOP recommendation for premature infants born less than 32 weeks gestation. The reviewer noted that Synagis is only approved after a child's first RSV season if there are continuing pulmonary or cardiac problems. The reviewer stated that the medical records showed Petitioner is developing normally and does not have pulmonary or cardiac problems.

The reviewer concluded that "the reasons cited by the [Petitioner's] family do not constitute

medical indications for continuation of Synagis past [Petitioner's] first RSV season.”

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination the Commissioner must cite “the principal reason or reasons why the commissioner did not follow the assigned independent review organization's recommendation.” MCL 550.1911(16)(b) The IRO's analysis is based on extensive experience, expertise, and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case. Therefore, the Commissioner accepts the findings of the IRO that the requested treatment is not medically necessary. For that reason, the treatment is not a covered benefit.

## **V ORDER**

The Commissioner upholds HAP's December 13, 2007, final adverse determination in this matter denying coverage for the Synagis injections.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.